

BEFORE THE  
TENNESSEE STATE BOARD OF EQUALIZATION

*In Re:* Cedar Pointe LP )  
Map 90A, Group B, Control Map 90B, Parcel 46.01 ) Maury County  
Tax years 2003, 2004 )

PROPOSED DECISION AND ORDER

Statement of the Case

The Maury County Board of Equalization has valued the subject property for tax purposes as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$265,800	\$5,360,700	\$5,626,500	\$2,250,600

Appeals have been filed on behalf of the property owner with the State Board of Equalization ("State Board").

The undersigned administrative judge conducted a hearing of this matter on July 19, 2007 in Nashville.<sup>1</sup> The appellant, Cedar Pointe, L.P., was represented by registered agent Patrick H. Musgrave, of Evans & Petree, PC (Memphis). Maury County Deputy Property Assessor Bobby Daniels was assisted by Robert T. Lee, attorney for the State Division of Property Assessments (DPA) and George C. Hoch, TMA, a member of DPA's staff.

Proposed Decision

These appeals produced a condensed version of the earlier debate concerning the valuation of the "Acorn Hills" Low Income Tax Credit Housing ("LIHTC") project in adjoining Marshall County. Whereas Acorn Hills involved freestanding dwellings, the LIHTC property in question here is an apartment complex located on Theta Pike in Columbia. Built in 1997 on a 10.63-acre site, the "Cedar Pointe" Apartments consist of 11 buildings and a total of 112 units. The certified cost of this project, for which the Tennessee Housing Development Agency (state administrator of the LIHTC program) allocated \$5,500,000 in tax credits, was \$7,032,604.<sup>2</sup> In keeping with the usual arrangement, the developer applied the proceeds from the assignment of those credits (\$3,850,000) to the construction costs. In 2005, the developer obtained a permanent loan in the amount of \$1,875,000 at a 6.29% interest rate.

Notwithstanding the physical differences between the properties, the discussion regarding the key points of disagreement in Acorn Hills LP/Brisben (Marshall County, Tax Years

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<sup>1</sup>The parties filed post-hearing memoranda on or before the August 1, 2007 due date.

<sup>2</sup>The tax credits are scheduled to expire with the pro rata allocation in 2009.



2003 and 2004, Initial Decision and Order, October 29, 2007) seems equally germane to the instant case. Based on that analysis, the administrative judge respectfully recommends that the subject property be valued by revising Mr. Hoch's Discounted Cash Flow (DCF) Spreadsheets as follows:

**Tax Year 2003** (Assessor/DPA Hearing Exhibit, pp. 67-68):

Potential gross (restricted) rental income escalation: 1.50% (beginning with year 2)  
Vacancy and collection loss: 10.00% of potential gross income (beginning in year 1)  
Miscellaneous income: 3.50% of potential gross income (beginning with year 1)<sup>3</sup>  
Expense escalation: 3.00% per year (beginning with year 2)  
Discount rates: 11.30% for NOI excluding tax credits; 8.00% for tax credits  
Years of tax credits remaining: 7  
Terminal capitalization rate: 9.60%  
Reversionary value: based on capitalization of rent-restricted NOI at end of holding period (less selling expenses)

**Tax Year 2004** (Assessor/DPA Hearing Exhibit, pp. 71-72):

Potential gross (restricted) rental income escalation: 1.50% (beginning with year 2)  
Vacancy and collection loss: 10.00% of potential gross income (beginning in year 1)  
Miscellaneous income: 3.50% of potential gross income (beginning with year 1)  
Expense escalation: 3.00% per year (beginning with year 2)  
Discount rates: 10.80% for NOI excluding tax credits; 8.00% for tax credits  
Years of tax credits remaining: 6  
Terminal capitalization rate: 9.40%  
Reversionary value: based on capitalization of rent-restricted NOI at end of holding period (less selling expenses)

Order

Within ten (10) days from the date of entry hereof, the Assessor and/or DPA shall submit for the record revised DCF spreadsheets reflecting adjusted values for the subject property consistent with the above findings. It is further ORDERED that the following values be adopted for the tax years under appeal:

**Tax Year 2003:** Assessor/DPA adjusted DCF value less \$25,592 (appraised value of tangible personal property).

**Tax Year 2004:** Assessor/DPA adjusted DCF value, equalized by application of the overall appraisal ratio certified by the State Board for Maury County (.9580), less \$20,613 (appraised value of tangible personal property)

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<sup>3</sup>Due to the reporting of \$214,866 in "rental achievement income" as other revenue for the year ended December 31, 2002, the projection of miscellaneous income for the year 2003 was abnormally inflated.

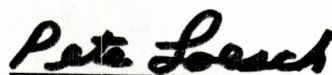


Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 29<sup>th</sup> day of October, 2007.



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PETE LOESCH  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

cc: Patrick H. Musgrave, Evans & Petree, PC  
Robert T. Lee, General Counsel, Comptroller of the Treasury  
Jimmy R. Dooley, Maury County Assessor of Property

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